

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6435 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SITARAM P DELHIWALA

Versus

CENTRAL EXCISE AND CUSTOMS DEPARTMENT

Appearance:

MR MB GANDHI for Petitioners
Mr B B Naik for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by Sitaram Parmanand Delhiwala & Ors. seeking direction to fix rent of the subject premises for the period 1982-87 and make payment of rent on that basis.

2. The say of the petitioner is that the subject premises was rented out to the respondents in the year 1975 on a rent of Rs.1.25 per sq.ft which was fixed at Rs.1304.55 per month. As per the agreement, the rent was

required to be revised at an interval of 5 years.

3. This Application is opposed by Mr B B Naik, Addl. Central Government Standing Counsel on the ground of delay on the part of the petitioner in approaching this Court. I have considered this aspect and rejected the contention in an identical matter being Special Civil Application No. 2397/93 decided today. It is not in dispute that under the certificate dated 24.10.1994, the CPWD has assessed rent of the subject premises between Rs.2,620/- and Rs.3,749/-. The assessment has been in accordance with the recognised principles of valuation and as per the prevailing market rate in the locality. It would thus be convenient to fix the rent of the premises taking average of the aforesaid two figures given in the certificate which comes to Rs.3,185/-.

4. It is stated that certain amount against rent has been paid to the petitioner under the interim orders of this Court. In view of the aforesaid, this Application is allowed. Respondents are directed to pay rent to the petitioners for the period 1982-87 in accordance with the certificate issued by CPWD dated 24.10.1994 fixing the average rent at Rs.3,185/- after making adjustments of the amount paid in excess or short. If any excess amount has been paid, the same shall be adjusted against rent of the subsequent years. The respondents shall undertake the exercise of calculation and pay the amount due, if any, within a period of two months from the date of receipt of the writ.

Rule made absolute to the aforesaid extent with no order as to costs.

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FURTHER ORDER

After pronouncement of the judgment, Mr B B Naik, learned Addl. Central Government Standing Counsel submits that the order fixing the rent for the period 1982-87 may be stayed for a period of 4 weeks with a view to approach the higher forum. This prayer is being opposed by Mr M B Gandhi, learned Advocate for the petitioner. However, it is directed that this order will not be given effect for a period of 3 weeks.

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